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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/527,659	04/08/2005	Dirk Heukelbach	05587-00377-US	7080

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EXAMINER	
NUTTER, NATHAN M	

ART UNIT	PAPER NUMBER
1796	

MAIL DATE	DELIVERY MODE
03/03/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/527,659	HEUKELBACH ET AL.	
	Examiner	Art Unit	
	Nathan M. Nutter	1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 January 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-4,6-15 and 17-21* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4,6-15 and 17-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

In response to the amendment filed 26 January 2009, the following is placed in effect.

A new ground of rejection follows.

Claim Objections

Claims 6 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim, or amend the claim to place the claim in proper dependent form, or rewrite the claim in independent form. Claim 6 recites a broader range for the comonomer than the antecedent recitation in claim 1.

Claim Rejections - 35 USC § 112

Claim 21 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. The Specification does not support the claimed range of inclusion for the cyclic olefin copolymer.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-4, 6-15 and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takahashi et al (US 5,468,803) in view of Yamamoto et al (US 5,783,273) or Hirose et al (US 5,321,030).

The reference to Takahashi et al teaches the production of film and sheet like articles, including packaging materials, through vacuum forming techniques, Using cyclic olefin copolymers, as herein recited. Note the paragraph bridging column 16 to column 17. These articles would certainly have a thickness of 2 mm (2000 μm) or less. The thermoforming procedure is disclosed at column 10 (lines 11-16). The cyclic olefin polymers (COC) employ identical monomers at the paragraph bridging column 2 to column 3, which possess glass transition temperatures embraced by those of the instant claims at “130°C or higher.” Note column 4 (lines 35 et seq.). The use of an olefin comonomer is taught at column 2 (lines 41-46) and column 33 (line 50) to column 34 (line 9). The COC may have a number average molecular weight of from 10,000-200,000, which is well within the claimed range. Note the paragraph bridging column 4 to column 5. Other unsaturated monomers may be employed for the COC at column 4 (lines 25-60). The heat of distortion would be above 121°C, as recited herein. Note column 5 (lines 44 et seq.) for the inclusion of other polymers. The additional polymer may be added in amounts of from 10-0.01% by weight at column 7 (lines 50-60).

The reference to Takahashi et al teaches the production of film and sheet articles by vacuum forming compositions comprising cyclic olefin copolymers useful in

the manufacture of films using identical constituents that produce copolymers having identical physical characteristics and may be used as a blend with other polymers, as recited and claimed herein. The reference does not provide any range for the film thickness as recited in claims 4 and 15, but teaches the use thereof in making medical articles and packaging. Based on the teachings of the reference, as pointed out, the manipulation of film thickness would have been within the skill of an artisan depending on end-use. This is bolstered by the fact that the instantly claimed films may be as thick as 2 mm (2000 μm), or about 0.078 inches. The reference does not provide any teaching of ranges for the heat distortion temperatures as recited in claims 10, 12 and 18, though the reference teaches the identical COC polymers. The heat of distortion for these polymers would certainly be expected to be the same. The reference shows the high cyclic monomer content, with attendant high Tg values. As such, the associated heat distortion resistance would be expected, and would not be surprising results.

The reference does not show the manufacture of a blister pack, as recited in claim 11.

The references to Yamamoto et al (US 5,783,273) and Hirose et al are both relied upon to show the production of films having the specified thickness employed to form blister packs, as recited in claim 11.

Yamamoto et al show the production of multilayer laminates, suitable to produce blister packs. Note the Abstract. The reference employs the identical monomers as herein claimed. Note column 43 (lines 42-48) which shows a thickness of 150-5,000 μm, clearly within the ranges recited in claims 4 and 15. The reference employs the identical

monomers, as herein recited and as taught by Takahashi et al, at column 5 (lines 1 et seq.). The reference shows a glass transition temperature of 30˚ - 180˚C at column 30 (lines 28-36). This high range would also be indicative of a high heat distortion resistance, as recited herein.

The patent to Hirose et al shows the manufacture of multilayer laminates, suitable for the production of blister packs, whose film thickness may be "in the range of 2 μm to 20 mm," which embraces the recitations of claims 4 and 15. Note the Abstract. The reference employs the identical monomers used by Takahashi et al and employed herein. Note column 5 (lines 1 et seq.). The reference teaches a glass transition temperature range of "preferably -10˚ - 170˚C" at column 3 (lines 59-63).

The secondary references and the primary reference to Takahashi et al all show the use of the identical monomers. Each shows the production of films. Yamamoto et al and Hirose et al show the specific film thickness range and subsequent use thereof in the production of blister packs. Nothing on the record indicates unexpected or surprising results.

Response to Arguments

Applicant's arguments filed 26 January 2009 have been fully considered but they are not persuasive.

With regard to the rejection of claims 1-4, 6-15 and 17-20 under 35 U.S.C. 103(a) as being unpatentable over Takahashi et al (US 5,468,803) in view of Yamamoto et al (US 5,783,273) or Hirose et al (US 5,321,030), applicants contend the rejection to be untenable since the use of the comonomer recited is not shown. This is not the case as

pointed out above. The reference clearly shows the comonomer. The range of inclusion, as recited herein, would, likewise, clearly be envisaged. The passage at column 3 (lines 14-22) shows other cyclic olefin monomers, as recited herein, and does not detract from the grounds of rejection, as pointed out. Applicants choose passages, such as column 2 (lines 47 and 48) for broad teachings, and assert the patentability of the claims thereover. However, as shown, the reference teaches the comonomers. A reference is viewed in the entirety of its teachings, and not for isolated passages. Contrary to applicants' assertions, the reference shows the comonomers, a range of which would be clearly envisaged, as herein recited.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan M. Nutter whose telephone number is 571-272-1076. The examiner can normally be reached on 9:30 a.m.-6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James J. Seidleck can be reached on 571-272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nathan M. Nutter/
Primary Examiner, Art Unit 1796

nmn

28 February 2009